

Loxahatchee NWR License Agreement

Governor's Commission and Governing Board Recommendations

Governor's Commission on the Everglades

As requested at the Water Resources Advisory Committee (WRAC) meeting on November 1, 2001, attached is the Resolution of the Governor's Commission on the Everglades (Governor's Commission) regarding the Loxahatchee Wildlife Refuge License Agreement. The six (6) recommendations from the Governor's Commission are listed below with a response as to the content of the current draft of the License:

1. Term of the license agreement should be for 20 years with two 15-year renewal agreements with discretion by the SFWMD with one year's notice.

The current draft license has a term of 50 years. Significant negotiations centered on this issue. The 20/15/15 year provision was presented and pushed by District staff but the FWS insisted on a 50 year term to support the investment of capital improvements and to support substantially higher budget proposals for exotic control over the next decade or so. Staff considers the 50 year term acceptable in light of the District's reserving primary use of the License Lands for water resource and water management purposes as recommended by the Governor's Commission and in light of the District imposing accountability requirements in the proposed Agreement, as follows:

- 1) FWS required to comply with its Comprehensive Conservation Plan for the Loxahatchee Refuge which identifies the goals and objectives to be met in managing the Refuge,
- 2) FWS required to comply with objective and quantifiable performance measures to track FWS's progress in meeting the goals and objectives of the Comprehensive Conservation Plan,
- 3) FWS required to annually report to the District on its management program and compliance with the performance measures,
- 4) FWS required to undertake formal public review of FWS's management performance every five years,
- 5) The District to periodically review FWS compliance with performance measures,
- 6) Requirement in the default provision that FWS's non-performance be cured within 120 days of notice except for excusable delay or lack of available funding,

- 7) Specific notice, meeting, and briefing procedure established to address non-performance where lack of funding is the primary reason for non-performance and the best efforts the Service will use to obtain adequate funding.

2. **SFWMD shall be provided access to the area for the purposes of research and collection of water samples and to advance the implementation and operation of Everglades restoration activities such as the Comprehensive Everglades Restoration Plan and the Everglades Construction Project and consistent with the Comprehensive Conservation Plan.**

Specific language is included in the license regarding District and State access. The performance measures also require free and open research access to the Refuge.

3. **Public use and access to the area should be continued and enhanced in the refuge as provided for in the Comprehensive Conservation Plan.**

The license specifically identifies the CCP, including the public use components as the basis for the management of the area. There are also performance measures relating to maintaining the Refuge open to public use.

4. **The goals, objectives and strategies provided for in the Comprehensive Conservation Plan are implemented by the USFWS and a mechanism is established for the SFWMD and the state to monitor progress on these priorities.**

The license requires annual reports and public reviews of management progress every 5 years. There are a series of management goals, strategies, and performance measures incorporated into the license.

5. **The Comprehensive Conservation Plan should be subject to formal public review by the SFWMD every five years.**

See comments for Governor's Commission recommendation #1.

6. **U.S. Fish and Wildlife Service management of the property should be subject to the requirements and use of the lands by the U. S. Army Corps of Engineers and SFWMD for the purposes of ecosystem restoration, the Comprehensive Everglades Restoration Plan, flood control, water supply and other allied purposes, which are deemed the primary use of the property.**

The primary use section of the license includes all of the primary uses listed in the Commission's resolution.

Governing Board:

At the February 14, 2001 workshop/meeting, the South Florida Water Management District's Governing Board approved a motion supporting the Governor's Commission recommendations with an additional recommendation that the District retain the right to opt out of the License on an every 5 year basis if significant improvements are not accomplished by the U.S. Fish and Wildlife Service in regard to exotic control and other management areas. For reason outlined in the response for Commission Recommendation #1, the opt-out provisions is not included in the current draft license.